Surinder Kumar. …. Appellant.

Vs.

Munshi Ram and another. ….Respondents.

Coram

The Hon'ble Mr.Justice Deepak Gupta, Judge.

Whether approved for reporting?

For the Appellant: Mr .R.K.Gautam, Sr. Advocate with Mr.Naveen Bhardwaj, Advocate.

For the Respondents: None for respondent No.1.
Ms. Sunita Sharma, Advocate for respondent No.2.

Deepak Gupta, J:.

This appeal by the claimant, is directed against the award of the Motor Accident Claims Tribunal, Hamirpur in MAC Petition No.78 of 19989, decided on 15.1.2002 whereby he has awarded a sum of Rs.2,92,800/- in favour of the claimant alongwith interest.

Whether reporters of local Papers may be allowed to see the judgment?

claimant was working as a labourer. The learned tribunal assessed the income of the claimant at Rs.50/- per day or Rs.1500/- per month. He has assessed loss of earning at Rs.900/- per month and applied multiplier of 16 and assessed Rs.1,72,800/- as loss of income. The claimant has been awarded Rs.35,000/- for medical expenses. He has been awarded a sum of Rs.35,000/- for pain and suffering and a sum of Rs.25,000/- for loss of amenities of life. Aggrieved against the award, the claimant has filed the present appeal.

After going through the material on record and having heard Mr. R. K.Gautam, learned Senior counsel for the claimant, I am of the considered view that the amount of compensation awarded is extremely low and is bound to be enhanced.

The disability certificate of the claimant has been proved on record as Ext.PA. This shows that he has suffered 100% disability. The claimant has suffered spinal injury and has been totally disabled. I have been unable to fathom why the Tribunal after assessing his income at Rs.1500/- per month has taken loss of income only at Rs.900/- per month. The claimant is a labourer. Such a person doing manual labour who has suffered 100% disability would be unable to earn even a single paise.

entitled to Rs.3,24,000/- for loss of future income.

Unfortunately, no cogent evidence has been led with regard to the expenses incurred on treatment. The claimant has stated that he remained under treatment for a long time. The claimant was hospitalized at Indira Gandhi Medical College, Shimla as well as at P.G.I.,Chandigarh. In addition to medical expenses, he would have required some attendant. Therefore, the amount of Rs.35,000/- awarded to him by the tribunal for medical expenses cannot be said to be excessive.

The tribunal has awarded Rs.35,000/- to the claimant for pain and suffering. In my opinion, the award under this head is very low. One cannot even imagine the plight of the poor claimant, who is bed ridden and not even in a position to move without the assistance of the others. Therefore, under the head pain and suffering, in my opinion, he should be awarded Rs.1,00,000/-.

The claimant has been crippled for life and has to lead a vegetative existence for rest of his life. He is totally crippled and has to rely upon aid and benevolence of others for even performing the day to day functioning. He cannot live like a normal person. There are virtually no chances of getting married or raising a family. He also requires

at the rate of 9% per annum w.e.f. 12.10.98 the date of filing of the claim petition till the deposit of the entire amount.

Ms. Sunita Sharma, learned counsel for respondent No.2 has raised an objection that since the amount claimed in the claim petition is only Rs.5,00,000/-, this court cannot awarded any amount above the amount claimed. This contention of Ms. Sunita Sharma, is bound to be rejected. The Tribunal or a Court exercising powers under Motor Vehicles Act, 1988, is bound to award just compensation. In case the just compensation, as per the material on record, works out to more than the amount claimed, the Tribunal will be well justified to award such an amount. In this behalf, a reference may be made to the judgment of Apex court in **Nagappa** v. **Gurudayal Singh and others** [2003 ACJ 12), wherein the Apex court has clearly laid down that there is no limitation or restriction on the powers for awarding just compensation.

In view of the above discussion, the award of the Tribunal is modified and the compensation enhanced from Rs.2,92,800/- to Rs.5,60,000/-. The respondent No.2- National Insurance Company with whom the vehicle was admittedly insured, is directed to deposit the

March 17, 2006.
(Pds)

(Deepak Gupta).
Judge.